

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

1 IN THE MATTER OF A SUBSTANTIAL )  
DEVELOPMENT PERMIT ISSUED BY )  
2 LEWIS COUNTY TO JACK G. BATY )  
3 JACK G. BATY, )  
4 Appellant, )  
5 vs. )  
6 LEWIS COUNTY, )  
7 Respondent. )

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SHB No. 97

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

9 THIS MATTER being a request for review for a recreational  
10 subdivision; having come on regularly for hearing before the Shorelines  
11 Hearings Board on the 17th day of December, 1973, at Chehalis, Washington;  
12 and appellant Jack G. Baty appearing through his attorney, Laurel L.  
13 Tiller and respondent Lewis County appearing through its deputy  
14 prosecuting attorney, Norm Stough; and Board members present at the  
15 hearing being W. A. Gissberg (presiding), Ralph A. Beswick, Walt Woodward,  
16 Mary Ellen McCaffree and Robert Beaty; and the Board having considered  
17 the sworn testimony, exhibits, records and files herein and having  
18 entered on the 27th day of March, 1974, its proposed Findings of Fact,

1 Conclusions of Law and Order, and the Board having served said proposed  
2 Findings, Conclusions and Order upon all parties herein by certified  
3 mail, return receipt requested and all parties having submitted a  
4 Waiver of Exception and Written Argument and Request for Final Order, and

5 The Board being fully advised in the premises; now therefore,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
7 Findings of Fact, Conclusions of Law and Order, dated the 27th day of  
8 March, 1974, and incorporated by this reference herein and attached  
9 hereto as Exhibit A, are adopted and hereby entered as the Board's Final  
10 Findings of Fact, Conclusions of Law and Order herein.

11 DONE at Lacey, Washington, this 26<sup>th</sup> day of April, 1974.

12 SHORELINES HEARINGS BOARD

13  
14 Walt Woodward  
WALT WOODWARD, Chairman

15  
16 W. A. Gissberg  
17 W. A. GISSBERG, Member

18  
19 Mary Ellen McCaffree  
MARY ELLEN McCAFFREE, Member

20  
21 Ralph A. Beswick  
22 RALPH A. BESWICK, Member

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25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL  
DEVELOPMENT PERMIT ISSUED BY  
LEWIS COUNTY TO JACK G. BATY

JACK G. BATY,

Appellant,

vs.

LEWIS COUNTY,

Respondent.

SHB No. 97

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter having come on for hearing on December 17, 1973 in Chehalis, Washington before Board members W. A. Gissberg (presiding), Ralph A. Beswick, Walt Woodward, Mary Ellen McCaffree and Robert Beaty, appellant appearing personally and through his attorneys, Dysart, Moore, Tiller & Murray, Laurel L. Tiller of counsel; and Lewis County appearing by and through its deputy prosecuting attorney, Norm Stough, and the Board having heard the testimony and considered the evidence and being fully advised makes the following

EXHIBIT A

1 FINDINGS OF FACT

2 I.

3 On July 2, 1973 Lewis County issued a substantial development permit  
4 to Jack G. Baty for a recreational subdivision as to real estate more  
5 particularly described in the application of appellant which is a part  
6 of this cause.

7 II.

8 On July 27, 1973 the appellant appealed from a portion of that permit.  
9 that portion being the following requirement:

10 "All road construction shall comply to minimum  
11 standards for road construction as set forth by the  
12 Lewis County Engineer and also found in the Lewis  
13 County Subdivision Resolution dated March 26, 1962  
14 as revised August 9, 1971, Article 5, Section 5.01  
15 thru 5.23."

14 III.

15 On August 28, 1973 the office of the attorney general of the State of  
16 Washington certified the appellant's request for review as being a  
17 reasonable one.

18 IV.

19 Appellant does have a Department of Ecology permit for a recreational  
20 subdivision in a flood plain by Permit No. 2-1302. The property is not  
21 within the floodway of the flood plain. Purchasers of the lots will not  
22 be required to procure a shoreline management permit nor a flood plain  
23 control zone permit for the construction of a single family residence.

24 V.

25 The appellant's proposed recreational subdivision seeks to retain  
26 as much as possible of the natural conditions of the shorelines of the

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AND ORDER

1 state as is consistent with providing access to the tracts or lots within  
2 the subdivision.

3 VI.

4 The Lewis County subdivision ordinance is essentially designed to  
5 lay down certain mandatory requirements which are applicable in the case  
6 of more intense land development. By its terms, the subdivision ordinance  
7 expressly excludes from its coverage the division of land where each  
8 parcel is five acres or more in area.

9 VII.

10 Each parcel of land within appellant's proposed plat is five acres or  
11 more in area.

12 VIII.

13 There was no evidence presented at the hearing relating to the  
14 status of the master program of Lewis County.

15 From which comes the following

16 CONCLUSIONS OF LAW

17 I.

18 This Board has jurisdiction of the parties and subject matter of  
19 the review.

20 II.

21 The substantial development shoreline management permit, as ordered  
22 modified by this Board, is consistent with the policy of the Shoreline  
23 Management Act, the Guidelines of the Department of Ecology and, insofar  
24 as can be ascertained, the master program of Lewis County.

25 III.

26 The matter should be remanded to Lewis County for the reissuance of

27 FINDINGS OF FACT,  
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1 a permit in accordance with the following:

- 2 1) The requirement mentioned in paragraph II of  
3 these Findings of Fact shall be stricken.
- 4 2) All roads within the subdivision shall be "all  
5 weather" roads typical to those utilized in the  
6 surrounding area and used for recreational forest  
7 access.
- 8 3) The travel surface of such roads shall be not  
9 less than 16 feet in width with ditching where  
10 necessary.
- 11 4) The construction of any road whose grade is in  
12 excess of ten percent shall be subject to erosion  
13 control measures and requirements to be first  
14 approved by the Lewis County Engineer.
- 15 5) The substantial development permit is limited  
16 to the roads and the lots or subdivisions as now laid  
17 out and described on Appellant's Exhibit 3. The  
18 permit should contain a specific legal description  
19 confining the substantial development permit to the  
20 area of Appellant's Exhibit 3 showing lots and  
21 subdivisions thereon together with road access  
22 thereto.
- 23 6) No roads shall be constructed within 200 feet of the  
24 Cowlitz River and Otter Creek, except as otherwise  
25 shown on Appellant's Exhibit 3. This condition  
26 should be expressed by description upon the permit.

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1           7) There are two areas in the subdivision in which  
2           the proposed roadway grade exceeds the maximum  
3           allowable grade percentage contained in the Lewis  
4           County subdivision regulations. Those areas shall  
5           be finished by appellant in a double oil mat surface.  
6           Area B of Exhibit 3 shall also be so finished, if  
7           in the opinion of the Lewis County Engineer such  
8           is desirable or necessary for road travel.

9                               ORDER

10          The permit is remanded to Lewis County to reissue the permit in  
11 accordance with the Conclusions of Law expressed herein and in such form  
12 as shall expressly and definitively state thereon the conditions under  
13 which the substantial development may proceed.

14          DATED this 27<sup>th</sup> day of March, 1974.

15                               SHORELINES HEARINGS BOARD

16                               Walt Woodward  
17                               WALT WOODWARD, Chairman

18                               W. A. Gissberg  
19                               W. A. GISSBERG, Member

20                               Mary Ellen McCaffree  
21                               MARY ELLEN McCAFFREE, Member

22                               \_\_\_\_\_  
23                               ROBERT BEATY, Member

24                               Ralph A. Beswick  
25                               RALPH A. BESWICK, Member

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27 FINDINGS OF FACT,  
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